IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 32508 of 1998

Between:

Md. Shamshuddin S/o Md. Hussain
R/o 1-4-308/15/A, Siddiquinagar,
Bholakpur, Secunderabad0500 080

..... PETITIONER

AND

1 Electronics Corporation of India rep. by its Managing Director,
E.C.I.L. Post, Cherlapalli,
Hyderabad.
2 The Presiding Officer, Labour Court-III,
Chandravihar Building, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an order, direction or Writ, particularly one in the nature of Writ of certiorari and after calling for the records, quash the Award dated 21.4.1195 passed by the Labour Court-III, Hyderabad in I.D.No. 293/93 and consequently direct the Respondent to reinstate the petitioner into service with back wages and other attendant benefits.

Counsel for the Petitioner:MR.P.SUDHEER RAO

Counsel for the Respondent No.1 : Mr.P.Nageswara Sree

Counsel for the Respondent No.2: GP FOR LABOUR

The Court made the following :

ORDER:

This writ petition is filed by the workman, being aggrieved by the award of the Labour Court-III,Hyderabad in I.D.No. 293 of 1993 dated 21.04.1995, wherein the

claim petition filed by the petitioner under Section 2A(2) of the Industrial Disputes Act, 1947 (for short “the Act”) was dismissed.

It is the case of the petitioner that he was engaged as a daily wage worker in the first respondent-Corporation on 11.06.1976 and since then he worked continuously upto June, 1978. But, in the year 1978 his services were terminated without any notice and without following the procedure as prescribed under Section 25-F of the Act. Therefore, the same amounted to retrenchment of his service. However, the respondent-Corporation continued the juniors of the petitioner in service in violation of the provisions of the Act and some outsiders were also taken into service subsequent to his retrenchment in 1978. Though he approached the respondent-corporation and requested them to take him back into service, the Corporation had not considered his request. Therefore, he had to raise an industrial dispute before the Labour Court-III, Hyderabad, which was taken on file in I.D.No. 293 of 1993.

The petitioner/workman was examined himself as W.W.1 and marked Exs.W1 to W7. On behalf of the respondent/Management, M.Ws.1 and 2 were examined and Exs.M1 to M9 were marked.

After a detailed consideration of the oral and documentary evidence, the Labour Court came to the conclusion that there was no record to show that the petitioner had worked continuously for 240 days in a calender year in the Corporation apart from the fact that the dispute was raised belatedly after 13 years of such retrenchment from service and as such dismissed the claim petition. However, while dismissing the claim petition it was observed that the management is not precluded to consider the case of the petitioner for giving him fresh employment without being sponsored by employment exchange for the future vacancies taking into account that the petitioner had put in earlier service and that his name finds place in the waiting list of the daily wage workers prepared by the respondent company. It is also observed that the respondent may exercise its discretion for appointment of the petitioner in future vacancies on sympathetic grounds.

According to the petitioner, after the disposal of the claim petition, he has submitted a representation to the first respondent-Corporation, but the same was rejected. Hence this writ petition.

I have given my earnest consideration to the respective submissions made by

the learned counsel on either side and perused the Award under challenge and other material made available on record.

At the outset, I am of the view that the Labour Court has not committed any error so as to call for interference of this Court under Article 226 of the Constitution of India.

It is an admitted fact that the petitioner worked as a casual employee in the respondent-Corporation and he had raised an Industrial Dispute under Section 2A(2) of the Act belatedly after more than 13 years from the purported date of retrenchment from service. Further, there is no record to show that the petitioner had worked continuously for 240 days in a calendar year as required under law to invoke the procedure required under Section 25F of the Act. In fact, the Management expressed its inability to produce the records since the petitioner was a casual employee. Though it is not denied that the petitioner's name finds place here and there in the records, it has not produced any records such as Attendance Register or Acquittance Role for the purpose of showing that the petitioner did not work for 240 days, in view of the fact that there has been delay of 13 years. Therefore, the Management cannot be blamed. In the given circumstances of the case, the Labour Court rightly came to the conclusion that the petitioner has not made out any case and as such dismissed the claim petition of the petitioner. However, the Labour Court while dismissing the claim petition made certain observations as noticed above. The Labour Court has left to the discretion of the respondent/management to consider the case of the petitioner. Those observations are only sympathetic in nature and they do not bind the respondent/management. Therefore, even though the case of the petitioner is not considered in pursuance of the observations made by the Labour Court, it cannot be said that there was any illegality or infirmity committed by the management in rejecting the claim petition.

For the above reasons, the writ petition is devoid of merits and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

_____

07.07.2005

sh

To

1 The Managing Director, Electronics Corporation of India
E.C.I.L. Post, Cherlapalli,
Hyderabad.
2 The Presiding Officer, Labour Court-III,
Chandravihar Building, Hyderabad

3 Two C.Cs. to the G.P., for Labour, High Court Buildings, Hyderabad (OUT).

4 2 CD copies.